

## Minority Views on H.R. 1954, The Armed Forces Naturalization Act of 2003

H.R. 1954, The Armed Forces Naturalization Act of 2003, is a positive step in loosening the rigid restrictions immigration law has imposed on immigrant soldiers and their families. H.R. 1954 would (a) expedite the naturalization process by allowing military members to naturalize after serving one year in the military, waive naturalization fees, and allow naturalization interviews and oath ceremonies to take place abroad; (b) waive posthumous citizenship fees; and (c) ensure the ability of lawful permanent resident spouses, parents legally present in the United States, and unmarried children of citizen or posthumous granted citizen soldiers killed as a result of military service to self petition for immigration benefits or continue to pursue already filed petitions as if the U.S. citizen had not died. These substantive changes to immigration law will benefit those defending our nation and will help ensure that many immigrant families of our fallen soldiers are not penalized for their great sacrifice. We are disappointed, however, that the bill passed by the committee is not more generous in addressing the unique needs of immigrant families and, in some cases, makes existing law worse.

More than 37,000 non-citizen soldiers are currently serving on active duty in the U.S. Armed forces and some of the first U.S. casualties in the current war in Iraq were non-citizens.<sup>1</sup> Unfortunately, the rigidity of current immigration laws often prevents individuals like these soldiers, who are truly deserving, to be granted citizenship. In particular, a non citizen who is honorably serving in our military must leave his post abroad and return to the United States to file a naturalization application, be interviewed for the application, and to take the oath of citizenship. Consequently, soldiers serving abroad must spend prohibitive amounts of money in order to become citizens of the country they are defending. And yet even more shocking is the scenario in which a citizen or non-citizen soldier is killed while serving in our military; current law would void most pending applications for immigration benefits made by the soldier on behalf of his immediate family.

H.R. 1954 makes many meaningful improvements to existing law. However, we would have preferred that the committee go much further in assisting the immigrant families of our fallen soldiers. One of the unjust consequences of the 1996 immigration laws is that many individuals in the U.S. became ineligible for permanent residence due to a prior unlawful entry or a minor scrape with the law many years prior. The result is that spouses, children, and parents of a soldier killed in combat who have been rendered removable or ineligible for immigration benefits by the 1996 laws will be precluded from enjoying the benefits of this bill. This means that we will be deporting many of the spouses, children and parents of soldiers who have given their lives serving our country. In response, Reps. Howard Berman and Linda Sanchez offered an amendment, defeated by a party line vote, that would have waived certain documentation requirements, and authorized the Department of Homeland Security, on a discretionary basis, to waive categories of inadmissibility for spouses, children, and parents of soldiers killed in service to the military. This

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<sup>1</sup> *Citizenship Now Easier For Foreign-Born Soldiers*, <http://www.dtic.mil/armylink/news/Aug2002/a20020812citizenship2.html>.  
See also: Sylvia Moreno, "Immigrant Marine Fights For Citizenship; Application Denied Because of Mistakes", *Washington Post*; April 15, 2003.

proposal would have balanced the goal of honoring the sacrifice these families have made with our duty to national security.

We further believe that this bill does not go far enough in extending immigration benefits to all non-citizens serving the U.S. military, including the Selected Reservists. Current law grants the President authority to designate by Executive order a period of military hostilities that would trigger immediate naturalization eligibility for active duty members of the armed forces.<sup>2</sup> Unlike traditional members of the Armed Forces, Selected Reservists are not eligible for immediate citizenship under this law if they do not serve in combat during times of hostility. Rep. Zoe Lofgren offered an amendment, defeated by voice vote, that would have applied immediate naturalization benefits to Selected Reservists during times of hostility regardless of whether they serve in combat. This amendment would have addressed the fact that the rationale for providing benefits to members of the Armed Forces and members of the Selected Reserves is nearly identical because during times of hostility they both must be ready to leave family, friends, and familiar surroundings at a moment's notice and potentially die for their country.

We take great issue with two amendments added to this legislation by Rep. Steve King. The first amendment will require revocation of citizenship granted through one year of military service if the soldier is discharged under less than honorable terms. This bill was drafted with the intent to reward those who have taken a great risk and made great sacrifice for our country. However, allowing for the revocation of naturalization for less than honorable discharge would punish Service Members in a way that does not currently exist for soldiers applying for naturalization pursuant to completion of service during a time of peace. We understand Rep. King's desire to make the bill parallel to current law in 329( c) of the INA, but he overlooks that 329(c) applies exclusively to a special case in which members of the Armed Forces are eligible for immediate naturalization during a time of hostility without the requirement of any prior service or commitment to the military. The provision added to H.R. 1954 would bestow conditional citizenship on all immigrants naturalized through a demonstrated commitment to military service and would create a perverse incentive for non-citizens not to join the military. Moreover, this language would allow military authorities to routinely make legal decisions that in effect would deprive a U.S. citizen of his or her citizenship. In some cases, these decisions would be based on conduct that would be completely lawful in civilian contexts, but is considered a military offense under the Uniform Code of Military Justice.

The second amendment added to the bill by Rep. King will prevent parents of citizen soldiers and the parent of soldiers granted citizenship posthumously from obtaining immigration benefits if they are out of the country at the time that their child is killed in combat. The amendment is drafted in such a broad manner that it would exclude from benefits even parents who have not violated any immigration laws, including parents who are waiting abroad for a pending petition filed by their citizen child to be approved and parents who lawfully reside in the United States, but have left the country temporarily at the time of their child's death. Rather than honoring the sacrifice made by the fallen soldier and his parents, this amendment arbitrarily picks

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<sup>2</sup> 8 U.S.C. 1440 (a).

See also: Exec. Order No. 13,269, 67 Fed. Reg. 45287 (July 8, 2002), Designation of period beginning September 11, 2001 as time of hostility.

out the category of parents and adds a new requirement that would not have existed had the soldier lived and applied for benefits on behalf of his parents.

We are pleased that this committee has taken up the issue of military naturalization. However, we reiterate that the Armed Forces Naturalization Act of 2003 does not go far enough in assisting the immigrant families of our fallen soldiers. Moreover, amendments added to the bill in the committee would punish non-citizen soldiers and their families, rather than reward them for their service and sacrifice, by creating a conditional class of citizenship and putting additional restrictions on immigrant parents of soldiers. We hope that these issues will be resolved before this legislation goes to the floor so that we may send the proper message to our brave Servicemen and Servicewomen.

John Conyers, Jr.  
Howard Berman  
Robert C. Scott  
Melvin L. Watt  
Zoe Lofgren  
Sheila Jackson Lee  
Maxine Waters  
William D. Delahunt  
Anthony D. Weiner  
Linda T. Sanchez